GIOUS PROFESSION

MMENTARY ON A CHAPTER
E NEW CODE OF CANON LAW

BY HECTOR PAPI, S. J.

Religious Profession

A COMMENTARY ON A
CHAPTER OF THE NEW
CODE OF CANON LAW

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COMMENDATION OF HIS EXCELLENCY THE APOSTOLIC DELEGATE

APOSTOLIC DELEGATION,
WASHINGTON, D.C., *March* 7, 1918.

Dear Father Papi:

Your timely explanation of so important a chapter of the Code as that on Religious Profession will undoubtedly be appreciated by our clergy and religious.

The Code will form the basis of libraries of explanation and commentary in due time. What is needed promptly is precisely what you have begun—a brief and clear explanation of its more important and practical contents.

Your long experience of both the practice and the theory of the Religious life are a guarantee of the accuracy and thoroughness of your work.

Offering you my sincere congratulations on this very useful little volume, and wishing it a warm reception by the Religious Bodies of the country, I am

Yours sincerely in Christ,

JOHN BONZANO,
Archbishop of Metilene,
Apostolic Delegate.

COMMENDATION OF HIS EMINENCE CARDINAL GIBBONS

A book treating of Religious institutes according to the New Code of Canon Law will be welcomed by the members of the various Orders and Congregations in the country. And we can assure all that the present work of Father Papi, the Professor of Canon Law, in Woodstock College, will prove on use a ready handbook of information on this important subject.

The work has the special qualities of order, simplicity, fulness, brevity. The explanation follows the order of the Code, can be grasped at once, satisfies the reader and is always to the point. When the author finishes his subject, he stops and goes on to something else. We are glad to wish Father Papi's book success, and we recommend it heartily to all our good religious.

J. Card. Gibbons.

Baltimore,
March 15, 1918.

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A COMMENTARY ON A CHAPTER OF THE NEW CODE OF CANON LAW

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HECTOR PAPI, S.J.

PROFESSOR OF CANON LAW
WOODSTOCK COLLEGE

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PREFACE

ONE of the most important works undertaken by Pius X of holy memory was the codification or systematical arrangement of the laws of the Church. In keeping with the keynote of his Pontificate "to restore all things in Christ," he realized that one of the most efficient means of succeeding in his aims was the enforcement of ecclesiastical discipline based on the exact observance of existing ecclesiastical legislation. But laws cannot be observed unless they are known, and this necessary knowledge of ecclesiastical laws was not easily attainable as long as they remained scattered in separate collections in which they had been reproduced without any, or at least without a sufficient, attempt to reduce them to uniformity and to do away with those enactments which in the course of centuries had become obsolete or had been superseded by later legislation. True, different Roman Pontiffs

had endeavored to remedy this inconvenience, at least partially, by rearranging in separate constitutions different parts of ecclesiastical legislation, as was done for example by Pius IX and Leo XIII in their constitutions on censures, on religious institutes of simple vows, and on the censorship of books. But these were at best only partial remedies and the need was felt of a more comprehensive work which would contain in systematic form all the universal laws actually in force in the Church and would exclude all such enactments as had become obsolete or had been abrogated. The carrying out of this undertaking was truly a gigantic task. Pius X, by his Motu Proprio of March 19, 1904, took the initiative in the matter, and after fourteen years of labor on the part of several committees of Cardinals and consultors, together with the coöperation of the entire Episcopate, the work is now completed. Benedict XV, the reigning Pontiff, by his constitution "Providentissima Mater" of May 27, 1917, has given it his supreme sanction and promulgated it under the title of "Code of Canon Law."

We have given this brief account of the origin of the new Code because the subject matter of our work is taken from one of its chapters. This is one of the most important chapters of that part of the Code which deals with the religious life, the chapter on Religious Profession. The explanation of the enactments contained in it will be useful to every institute in which the three religious vows of poverty, chastity, and obedience are taken, whether these be solemn or simple vows, perpetual or temporary; whether the institute be of men or of women; whether it has received approval directly from the Holy See or is only diocesan.

While the Code does not revoke the privileges which the Holy See may have granted to an institute directly (Canons 4 and 613), it expressly abrogates all the rules and particular constitutions of each religious institute which are contrary to the canons or articles of the Code. (Canon 489.) It will be necessary, therefore, for the higher superiors of religious institutes to see to it that their constitutions and rules are brought into conformity with the enactments of the Code.

In cases of doubt they may have recourse to the S. Congregation of Religious.

The Code in general will not go into effect until the coming feast of Pentecost, that is not until May 19, 1918, so that there will be ample time for those concerned to become acquainted with the contents of the law on this matter of religious profession and on other equally important matters affecting religious.

The enactments which we are going to explain have no retroactive effect, but from the time they go into effect they must be adhered to in so far as the subject matter allows. Thus, for instance, according to Canons 572 and 574 nobody can be validly admitted to take perpetual vows unless he has remained with temporary vows for at least three years. As the law has no retroactive effect, should anyone be admitted before the 19th of May, 1918, to perpetual vows without the three years of temporary profession required by the Code, his profession would not be made null and void by the new law; but those who at the same date have not yet taken perpetual vows fall under the

law, as they can still fulfill it, and if they have remained with temporary vows less than three years, they must complete the period required by the Code before they can make their perpetual profession.

Before closing this preface we wish to add a word about the method followed in this work. As the title indicates, our only purpose was to give an explanation of the matter dealt with in the canons, or articles, contained in the chapter on Religious Profession. This chapter, however, presupposes that one is acquainted with the nature of religious profession and its various kinds. Hence we begin by giving and explaining the definition and main divisions of religious profession. After this there comes the commentary on the various sections of the chapter under review, as follows: first we give the Latin text of a portion of the law, then the English translation of the text, after which we present the explanation proper to the given canon or canons.

CONTENTS

CONTENTS

Religious Profession

Religious Profession

1. Religious profession defined

RELIGIOUS profession, *in general*, is the act by which one publicly embraces the religious state. In order to define, *in detail*, what religious profession implies, we must take into consideration the present discipline of the Church concerning the entrance of the faithful into the religious state. Having then in view the present ecclesiastical legislation in this matter, we may say that religious profession is "a contract, by which a Christian takes the three religious vows in a community approved by competent ecclesiastical authority, while the religious superior accepts the vows in the name of the Church, and admits the person who takes the vows among the members of the same community." We say that religious profession is:

1) It includes the three *vows* of *poverty*, *chastity*, and *obedience*

"*A contract, by which a Christian takes the three religious vows*," that is, the vows of *poverty*, *chastity*, and *obedience*, which are

essential to the religious state. (Canons 487, 488, 673.)

2) The vows must be taken in a *community approved* by the Church

"*In a community approved by competent ecclesiastical authority:*" because for several centuries past the Church has made *the joining a community* an element necessary for the religious state; and this community, in virtue of positive legislation, must have been approved *expressly* by competent ecclesiastical authority, that is, by either the Holy See, or by the Ordinary of the place where the community was formed. (Canon 488.)

Religious profession besides the *taking of the vows*, includes the "*traditio*"; difference between both

By joining a community, religious give themselves up, as it were, to it, with the object of working therein for their own perfection and for the particular end of the community. This giving oneself up (*traditio*), or *surrendering oneself* to an institute is something distinct from the *taking of the vows*, although both are accomplished by the same act. The vows are made to *God;* the surrendering of oneself is made to the *institute* which one joins. By virtue of the vows, religious are bound to fulfill the same, under penalty of becoming guilty, *before God*,

of unfaithfulness to their promises; by virtue of the surrendering of themselves, the superior acquires the right to direct the new members of the community in all that appertains to religious discipline in accordance with the constitutions of the institute; and, to the same extent, the *inferiors* assume *the obligation to obey their superior's orders.*

"*While the religious superior accepts the vows in the name of the Church.*" This acceptance of the Church makes religious profession a *public* act; *public*, not only in the sense that it is performed with some publicity, but chiefly in the sense that it is a *legal* act, which, when performed according to set laws, places the professed religious under the special guidance of the Church.

3) The vows are *accepted* by the religious superior *in the name of the Church:* hence they are *public.*

"*And admits the person who takes the vows among the members of the same community.*" This act on the part of the superior corresponds to the act by which the religious gives himself to the institute. Religious profession, being a bilateral contract, requires the consent of both contracting parties. The religious gives his consent by taking the vows in the presence of the superior, or of some-

4) The superior admits the newly professed among the members of the community

one delegated to represent him; the superior gives his consent by accepting the vows and admitting the newly professed as a member of his community.

2. Religious profession is: 1) *perpetual* or *temporary*; 2) *solemn* or *simple*

Religious profession may be:

Either *perpetual* or *temporary*, according as the vows which constitute its chief element are taken for life or only for a definite period of time.

Either *solemn* or *simple*, according to the nature of the vows which, also, may be solemn or simple.[1]

3. *Difference* between solemn and simple vows Solemn vows, as distinguished from simple vows, are a positive institution of the Church

Here it may be asked: In what does the difference between solemn and simple profession, solemn and simple vows, consist?

In answering this question, we must bear in mind that the *solemnity* of vows is not a *divine* institution, but due to the positive

[1] In accordance with Canon 488 of the Code, the term *religion* applies to every institute in which the three vows of poverty, chastity, and obedience are taken. A *religion* is called an *order* or a *religious congregation*, according as its members are admitted to *solemn* vows or only to *simple* vows.

Likewise, the term *religious* applies to all the members of every institute in which the three above mentioned vows are taken, while the members of a religion in which *solemn* vows are taken are called also *regulars*, and, when there is question of women, *nuns*.

legislation of the Church. It is the Church which has decreed that some vows should be solemn, and that, as such, they should be endowed with certain features or qualities which do not belong to simple vows.

These qualities may be reduced to two headings:

4. Solemn and simple vows differ with regard to their *effects*

1) Solemn vows enjoy greater stability

First: while both, namely all solemn vows and those simple vows which are taken for life, are, of themselves, perpetual, solemn vows enjoy greater stability, because the Church more rarely dispenses from them.[1]

2) They make acts contrary to them invalid, not merely illicit

Secondly: while all vows bind to the extent of making an act which is contrary to them illicit, solemn vows produce another effect by making a contrary act also invalid. Thus, for instance, if religious of simple vows buy or sell something without their superior's permission, they act unlawfully, but their transaction is valid; whereas the same act performed by religious of solemn vows is null and void. Again, if religious of simple vows should enter a marriage contract, they

[1] Wernz, Jus Decretalium. Vol. III, n. 677; Vol IV, n. 381. Vermeersch, De Religiosis Institutis et Personis. Vol. I, n. 327, 329. Fine, Juris Regularis S. J. Declaratio, c. VIII, n. 2, 3.

would act wrongly, but theirs would be a true marriage; whereas in the case of religious of solemn vows there would be no marriage at all.

Now it is clear that, apart from the positive institution of the Church, vows would not have these effects, because the Church, in using her power of dispensing, could act in the same manner with regard to all vows, and, were it not for the enactments of the Church, vows would not, of themselves, make null and void the acts which are contrary to them.

5. In what does the solemnity *itself* consist?

What has been said so far is sufficient to explain the difference between the solemn and the simple vows, as far as their *effects* are concerned. But we may ask: In what does the *solemnity itself* consist? What is it that makes a vow *solemn*, and consequently such as to have those effects? This further question, it is well to remark, is of lesser importance than the one explained in the preceding number. What is really of practical importance are the different effects which solemn and simple vows produce. The question concerning the solemnity, con-

sidered in itself, is more theoretical than practical and can be dismissed in a few words. There are so many different opinions in this matter that to discuss them all at length would require more space than the importance of this question deserves.

6. The solemnity comes from the juridical recognition which the Church gives to vows taken under certain conditions defined by law

Passing over, therefore, several opinions which to us seem to be less plausible, we hold as most probable that the solemnity of vows consists in the intervention by which the Church gives her juridical recognition to vows which she calls solemn. In concrete cases this juridical recognition presupposes that the Church has allowed the members of a certain institute to take solemn vows, and that all the conditions which must be fulfilled in order that these vows may be valid have been verified, whether these conditions are required by general laws or by the particular enactments embodied in the approved constitutions of the institute. When a vow is taken in an institute whose members can be admitted to take solemn vows and the necessary conditions have been fulfilled, that vow is a solemn vow in so far as the Church grants to it a special recognition

or sanction, owing to which the vow thus taken will have, by common law, the effects referred to in number 4. We speak of a *special* recognition or sanction, because according to the present discipline, the simple vows which are taken in a religious institute also enjoy the recognition of the Church, but this recognition is of a lower degree, and by common law does not produce the effects which are attached to solemn vows.[1]

CANON 572

Conditions required for the validity of religious profession

§ 1. Ad validitatem cuiusvis religiosae professionis requiritur: ut:

1. **Qui eam emissurus est, legitimam aetatem habeat ad normam Canonis 573.**
2. **Eum ad professionem admittat legitimus superior secundum constitutiones.**
3. **Novitiatus validus ad normam Canonis 555 praecesserit.**
4. **Professio sine vi aut metu gravi aut dolo emittatur.**
5. **Sit expressa.**
6. **A legitimo superiore secundum constitutiones per se vel per alium recipiatur.**

[1] Vermeersch, S. J., De Religiosis Institutis et Personis. Vol. II, pars i, supplementum 2. Nilles, S. J., De Juridica Votorum Solemnitate. Ballerini-Palmieri, S. J., Opus Theologiae Moralis. Tractatus VI, sectio ii, c. 3, n. 2, 3.

§ 2. Ad validitatem vero professionis perpetuae, sive solemnis sive simplicis, requiritur insuper ut praecesserit professio simplex temporaria ad normam Canonis 574.

§ 1. The following are the requisites for the validity of every religious profession:

1. *The candidate should have the required age, according to Canon 573.*
2. *He should be admitted to the profession by his lawful superior according to the constitutions.*
3. *A valid novitiate must have preceded in accordance with Canon 555.*
4. *The profession should not be made under compulsion, through fear, or by fraud.*
5. *It must be explicit.*
6. *It must be made in the presence of the lawful superior according to the constitutions or in the presence of someone delegated by the same.*

§ 2. For the validity of the perpetual profession, whether solemn or simple, it is also necessary that it should be preceded by the simple temporary profession in accordance with Canon 574.

7. The conditions required for a valid religious profession in general are:

The chapter opens with a canon dealing with the conditions necessary for the validity of religious profession, whether these conditions are common to all kinds of profession (§ 1), or belong exclusively to the profession of perpetual vows (§ 2).

The conditions, therefore, of which there is question in this first section are common to every kind of profession, whether simple or solemn, perpetual or temporary. If any of these conditions is not verified, the profession is invalid, that is, null and void.

1) legitimate age;

The first condition is the legitimate *age*, that is, sixteen (for the temporary profession) or twenty-one (for the perpetual profession), as laid down in the following canon (573).

2) legitimate admission to the profession;

The second condition requires that the candidate has been legitimately admitted to the profession. That is, there must be the consent of the legitimate authority or superior who, according to the constitutions of the order or congregation, has the power to admit candidates to make their profession.

3) a valid novitiate requiring:

The profession must be preceded by a valid novitiate in accordance with Canons 555 and following, as well as with Canon 542.

Canon 542 enumerates the *impediments* which forbid the entrance into the novitiate under penalty of invalidating such entrance, namely of making it null and void.

A.) freedom from impediments in the candidate;

Canon 555 lays down the conditions of *age*, *time*, and *place* which are prescribed under the same penalty.

B.) verification of circumstances essential to the novitiate.

In accordance with Canon 542, the following are debarred from the novitiate under penalty of invalidity of reception:

A. The impediments which make the novitiate invalid are:

Those who have once belonged to a non-Catholic sect. The non-Catholic sect here referred to seems to include all schismatical and Protestant religious bodies separated from the Catholic Church. Those, therefore, who have been members of any such religious bodies cannot be validly admitted to the novitiate without a special dispensation from the S. Congregation of Religious. Those Catholics, however, who, though denying their faith, did not join a sect, do not fall under the law.

a) having belonged to a non-Catholic sect;

Those who have not reached the requisite age, that is the age of fifteen. (Canon 555.)

b) lack of the canonical age;

Those who enter religion under compulsion or through grave fear or by fraud; as

c) compulsion of any kind;

well as those whom superiors are induced to admit as novices under similar circumstances.

d) marriage bond;

A married person, while his or her partner is alive.

e) religious profession whether still binding or not;

Those who are still members of some other institute, as well as those who, though actually free, were once bound by religious vows.

f) liability to be punished for a crime;

Those who are liable to be punished for a crime of which they have been accused or may be accused.

g) appointment to an episcopal see;

A Bishop, whether residential or titular, although only appointed by the Roman Pontiff and not yet consecrated.

h) sworn promise to exercise the ministry in a diocese or mission

Any cleric who by a statute of the Holy See promised under oath to work for his diocese or mission, unless his obligations have ceased.

B. Circumstances essential to the noviate:

In accordance with Canons 555, 556, the following are the circumstances of *age*, *time*, and *place* which are prescribed under penalty of nullity of the novitiate.

a) canonical *age;*

When candidates begin their novitiate they must have completed fifteen years of age.

b) duration of a year

The novitiate should last a year, which must be *complete* and *uninterrupted.*

α) complete

In order to be *complete*, the year must comprise 365 days, or, in a leap year, 366 days. The year is reckoned from the beginning of the day which follows the day of entrance, to the end of the day which in the following year corresponds to the date of entrance. Thus, if a sister enters the novitiate on the 15th of August, her year begins on the 16th and ends on the expiration of the 15th of the following year. Consequently she can take her vows on the 16th, at any hour, but not before. (Canon 34.)

In institutes whose constitutions prescribe more than one year of novitiate, the second year is not required for the validity of the probation, unless the constitutions expressly declare otherwise.

β) not interrupted through dismissal

The novitiate is *interrupted*, so that one has to begin it all over again:

If one, having been dismissed, goes out of the house;

or voluntary leave;

If one without permission leaves the novitiate *with the intention of not returning; not* if he merely *goes out* without permission;

or absence exceeding thirty days;

If, even with permission, and for any reason whatsoever, one remains outside the house *more than thirty days*, whether these thirty days succeed one another or are interrupted;

In case a novice, remaining under his superior's obedience, is absent from the novitiate not more than thirty but *more than fifteen days*, whether with his superior's permission or because compelled by force, the novitiate is not interrupted and all that has to be done for the validity of the novitiate in this case is to make up for the days of absence; if, under the same circumstances he is absent *not more than fifteen days*, his superiors may oblige him to supply the days of absence, but this supplying is in no way necessary for the validity of the novitiate.

c) *place* set apart for this purpose

The probation must take place in a house set apart for this purpose, and in order that a province may have two of such houses, a special Apostolic indult is required, which is not granted without grave reason, such as, for instance, the too large number of novices who cannot be easily trained unless divided

into two communities under two different masters. (Canon 554, § 2.) [1]

4) freedom from compulsion

As perfect freedom is necessary for the validity of the *novitiate* (see above, n. 7, 3, A, c), so is it necessary for the validity of the *profession;* hence the validity of the profession is also interfered with by compulsion, serious fear, or deception.

sufficient knowledge of what is essential to the profession;

The profession would also be invalid if one would make it, ignorant of what is essential to it; *for instance, if one would not know that his vows are perpetual,* or that the *solemn* vow of poverty incapacitates a religious from owning. This case is not mentioned in the Code, because it is evident that a profession made under these circumstances is invalid by the very law of nature. In order that the profession be valid, the first requisite is the consent of the religious who is going to make it, but if one does not know

[1] In institutes with *perpetual* vows the novitiate of *women* as well as of *brothers* must be preceded by six months of postulancy; in institutes with only *temporary* vows let the postulancy be regulated by whatever the constitutions prescribe; but in any case the postulancy is not prescribed by the common law of the Code for the validity of the novitiate. (Canons 539, 542.)

what the profession substantially means, his consent is substantially defective and consequently null and void. The case would be different if he were ignorant of the *accidentals* of the profession, for instance if one would believe that, in spite of his vow of poverty, he could use certain things without permission, or that, notwithstanding his vow of obedience, he could leave the house without permission on certain occasions, such as the death of one of his relatives. In these and similar cases his profession would be valid, in spite of his erroneous judgment, because his ignorance would not affect what is essential to religious profession, and consequently his consent would not be essentially defective. In other words, his error, because accidental, would not vitiate his consent, which otherwise would be present and good.[1]

5) the profession must be *explicit;*

The profession must be explicit. Canonists used to distinguish between an *expressed* or explicit and a *tacit* profession. The former is made by expressing it in words. The latter is made without the use of words, and is gathered from certain facts and

[1] Suarez, De Religione. Tract. VII, lib. vi, c. 5, n. 3.

circumstances, such as the wearing of the habit for a certain time without the superior's objection to it, or the performance of acts which belong exclusively to the professed. Pius IX abolished the form of *tacit* profession where there was question of the *solemn* profession; the present law does away with it altogether.

6) in the presence of the legitimate authority

It must be made *in the presence of the legitimate authority* in accordance with the constitutions; that is, the law prescribes that the profession has to be made before the legitimate authority, but it leaves to the constitutions of each institute to define who is the person invested with the authority to receive the profession in the name of the institute.

8. Special conditions for the perpetual profession (See Canon 574)

The conditions mentioned in the first section of this canon are, as we said above, common to every kind of profession. The conditions referred to in the second section are peculiar to the *perpetual* profession, which must be preceded by three years of *temporary* vows, in accordance with Canon 574.

CANON 573

Age required for the profession

Quilibet professionem religiosam emissurus oportet ut decimum sextum aetatis annum expleverit, si de temporaria professione agatur; vicesimumprimum si de perpetua, sive solemni sive simplici.

Anyone about to make his profession must have completed his sixteenth year of age, in the case of the temporary profession; or his twenty-first year, in the case of the perpetual profession, whether solemn or simple.

9. Sixteen years of age are required for the temporary profession; twenty-one for the perpetual profession

The age of sixteen and of twenty-one represents the minimum which is required for the temporary or the perpetual profession, respectively. More advanced age would not interfere with the validity of either.

CANON 574

Of the temporary profession which must precede perpetual profession

§ 1. In quolibet ordine tam virorum quam mulierum, et in qualibet congregatione quae vota perpetua habeat, novitius post expletum novitiatum, in ipsa novitiatus domo debet votis perpetuis sive solemnibus sive simplicibus praemittere, salvo praescripto Canonis 634, votorum simplicium professionem ad triennium valituram vel ad longius tempus, si aetas ad perpetuam professionem requisita longius distet, nisi constitutiones exigant annuales professiones.

§ 2. Hoc tempus legitimus superior potest, renovata a religioso temporaria professione, prorogare, non tamen ultra aliud triennium.

§ 1. In every order, as well of men as of women, and in every congregation with perpetual vows, with the exception of the cases referred to in Canon 634, the perpetual profession must be preceded by a temporary profession of simple vows, to be taken by the novice at the end of his probation in the house of the novitiate. These vows must be taken for a period of three years, or for a longer period in the case of those who at the end of three years will not have reached the age required for the perpetual profession, unless the constitutions prescribe yearly professions.

§ 2. The legitimate superior may prolong this period of three years by making a religious renew his temporary profession, but not beyond another period of three years.

Object of the law contained in this canon

This canon prescribes that no one should be admitted to take *perpetual* vows before having been, at least for three years, with *temporary* vows. The object of this law is to safeguard the interests, both of the indi-

vidual who is destined to take perpetual vows and of the community which has accepted him. During this period of temporary vows the individual will have the opportunity of acquiring a more thorough knowledge of the religious life and of the obligations connected with it than he did during his novitiate; and the community, in its turn, will be able to test more fully his fitness for the institute as well as his earnestness of purpose and desire of perseverance.

10. 1) The perpetual profession must be preceded by the temporary profession of vows to last three years

§ 1. In accordance with this first section, these temporary vows must be taken in the house of the novitiate, soon after the novitiate is over; unless at that time it is still doubtful whether the candidate should be allowed to take this first step in the institute, in which case the higher authorities of the institute may prolong the term of the novitiate, but not beyond six months. (Canon 571.) If the constitutions of some institute prescribe that temporary vows should be taken for a year at a time, the law will be fulfilled by making this temporary profession for a year at the end of the novitiate and renewing it twice, each time for another year. If at

the end of the novitiate the candidate has not yet reached the age of eighteen, this temporary profession will have to last more than three years, until he reaches the age of twenty-one as prescribed for the perpetual profession.

2) This temporary profession is omitted by those who, being already professed in another community, change institute

This temporary profession is omitted altogether when there is question of cases contemplated in Canon 634. These cases are those of religious who change their institute, that is, who with the permission of the Holy See join an order or congregation after having made their perpetual profession in some other order or congregation. These religious must make another novitiate in the institute to which they intend to be transferred, but after this second novitiate they can immediately be admitted to the perpetual profession without the three years of temporary profession.

11. This period may be extended to another period of three years by the legitimate authority

§ 2. If at the end of the period of three years a religious is not found worthy of being admitted to make the perpetual profession, but there is hope that after another trial he may be allowed to take perpetual vows, the legitimate superior may prolong

this temporary profession by admitting him to take again temporary vows. This additional period, however, should not extend beyond three years. The legitimate superior referred to in the law is the same as the one who has the power to admit candidates to make their profession.

CANON 575

Of the perpetual profession

§ 1. Exacto professionis temporariae tempore, religiosus ad normam Canonis 637 vel emittat perpetuam professionem, solemnem vel simplicem secundum constitutiones, vel ad saeculum redeat; sed etiam durante tempore professionis temporariae, potest, si dignus non habeatur qui vota perpetua nuncupet, dimitti a legitimo superiore ad normam Canonis 647.

§ 2. Suffragium Consilii vel Capituli pro prima professione temporaria est deliberativum; pro subsequente professione perpetua, solemni vel simplici, est consultivum tantum.

§ 1. *When the period of temporary vows is over, religious, in accordance with Canon 637, must either make their perpetual profession according to the constitutions, or return to the world; but even before the period of their temporary vows has expired, they can be dismissed*

by their legitimate superior in accordance with Canon 647, if they are not judged to be worthy of being admitted to the perpetual profession.

§ 2. *For the first temporary profession the superior must have the* consent *of the council or chapter; for the following perpetual profession, it is required that he should get the* advice *of either.*

12. The temporary profession is followed either by the perpetual profession or by dismissal

§ 1. According to section 1, at the expiration of the temporary vows, the professed religious must either make his perpetual profession or return to the world. The following suppositions, or cases, may help to make the law clear:

First: at the end of the first three years of temporary vows a sister has all the qualifications required for the perpetual profession. If she has also reached the age of twenty-one, she must be admitted to the perpetual profession; if she has not yet reached that age, she must be admitted as soon as she will reach it.

Secondly: at the end of the first three years of temporary profession, a sister lacks some of the essential qualifications, and there is no hope that her conduct may improve

during a second trial. She can be dismissed. In fact, if this is the case, she can be dismissed even before the temporary profession has expired.

Thirdly: at the end of the first three years of temporary vows, a sister is not yet found worthy of being admitted to the perpetual vows, but there is well grounded hope that she will give sufficient satisfaction after a second trial. Superiors may allow her to take temporary vows for three years longer. But at the end of this second trial a third trial is not admitted by the law, and she must either make her perpetual profession or return to the world.

13. For the first temporary profession the *consent* of the council or chapter is necessary; for the perpetual profession its *advice* is sufficient

§ 2. For admitting religious to the temporary or to the perpetual profession the superior must consult the council or the chapter, according to the constitutions. According to section 2 of this canon, when there is question of the first temporary profession, the superior needs the *consent* of one or the other, that is, he cannot admit religious to the first profession without the consent of the chapter or council. When there is question of the perpetual profession, whether it be

solemn or simple, it will be sufficient for him to get the *vote* or opinion of either, without being bound to follow it, if in the Lord he judges differently.

In religious institutes the *chapter* referred to in this canon is the body of religious who meet for the purpose of discussing and deliberating about the affairs of the community. It is *general*, *provincial*, or *local* according as it has the power to treat of the affairs of the whole institute, or only of the province or of the local community. As it is often difficult to call together all the members of a general, or even of a provincial chapter, superiors, whether general or provincial, usually have another body of advisers called *council*, whom they may, and sometimes must, consult in matters of more or less ordinary occurrence. The Code prescribes that local superiors also should have their council. The powers of chapter and council, as a rule, are laid down in the constitutions. It is the consent or advice of either of these two bodies which superiors must ask before admitting religious to the temporary or to the perpetual profession.

The reader will have noticed that in the first section of this canon references are made to Canons 637 and 647 and he may wish to know what is their bearing on the present canon. Accordingly, we insert here the main points contained in them. Canon 637 treats of the dismissal of religious on the expiration of their temporary vows; Canon 647 deals with their dismissal before their temporary vows have expired.

14. On the expiration of the temporary vows religious can be dismissed only for just and reasonable causes

According to Canon 637, while the professed of temporary vows are free to leave when the term for which they took vows is over, the authorities of the institute can dismiss them only for *just* and *reasonable* causes. We mentioned above the lack of the essential qualifications for the perpetual profession. The law adds that a *disease* is not to be considered a sufficient reason, unless it be proved *with certainty* that before the profession it had been *deceitfully* concealed or dissimulated.

15. Before the expiration of temporary vows:

According to Canon 647, those who have the power to dismiss religious must have *grave* reasons, such as the lack of religious spirit in the professed, in spite of repeated

warnings accompanied by salutary penances; but, again, *ill health* is not a sufficient reason unless *deceitfully* concealed or dissimulated before the profession; the reasons for dismissal must be made manifest to the religious by the superior who has the power to dismiss subjects, and the answers of the religious must in turn be faithfully communicated to the same superior; dismissed religious enjoy the right to have recourse to the Holy See (the S. Congregation of Religious), and as long as the case is pending before the Holy See, the decree of dismissal has no juridical effect, that is, the dismissal cannot be enforced by superiors before the Holy See has given its decision.

1) religious cannot be dismissed without grave reasons;

2) which must be made known to the religious;

3) the dismissed religious may have recourse to the Holy See

CANON 576

§ 1. In emittenda professione religiosa servetur praescriptus in constitutionibus ritus.

§ 2. Documentum emissae professionis, ab ipso professo et saltem ab eo, coram quo professio emissa est subscriptum, servetur in tabulario religionis; et insuper, si agatur de professione solemni, superior eam excipiens debet profitentis parochum baptismi de eadem certiorem reddere ad normam Canonis 470 § 2.

Rite to be followed in making the profession

§ 1. In making the profession the rite prescribed in the constitutions should be followed.

§ 2. The written formula of profession should be signed by the one who makes his profession and at least by him before whom the profession is made; moreover in the case of the profession of solemn vows, the superior who receives it should communicate the fact to the pastor of the place where the professed religious was baptized, in accordance with Canon 470 § 2.

16. The rite to be followed in making the profession is defined in the constitutions

§ 1. The term *rite* denotes, in general, the externals of the profession, such as the *formula* in which the profession is worded, the *ceremonial*, including circumstances of *time* and *place* as well as the *solemnity* which may accompany the taking of the vows. With regard to all this, the law does not prescribe anything definite, leaving the determination of the rite to the constitutions of each institute. The formula ought to embody as clearly as possible what is essential to religious profession. For this purpose it would be well to follow the directions con-

tained in articles 99, 100, and 101 of the "Normae." [1] In keeping with these directions, the formula ought to be simple and clear, excluding whatever is superfluous. It should state that the religious takes the three vows of poverty, chastity, and obedience according to the constitutions, temporarily or for life, as the case may be. If the profession is not perpetual, the period for which the vows are taken ought to be mentioned in the formula. Finally it ought to state that the profession is taken in the presence of the superior (or of the person delegated by the same), who accepts the profession in the name of the institute.

17. 1) record of the profession signed by religious and superior is to be kept in the archives

§ 2. In this second section the law prescribes, first, that the document testifying to the profession should be signed by the religious who takes the vows, and, besides, at least, by the person before whom the profession is made. It says: *at least* by him, because it would be well to have it

[1] The "Normae" were framed by the S. Congregation of Bishops and Regulars about the year 1900, and contain directions for the religious institutes which intend to apply to the Holy See for the approval of their constitutions.

signed also by two witnesses, who may be religious or externs. If (in extraordinary cases) the religious who makes the profession cannot write, he should mark a cross on the paper, in the presence of two witnesses who have assisted at his profession.

2) in the case of the solemn profession, notice must be sent to the pastor of the place where the religious was baptized

Moreover, when there is question of the *solemn* profession, the superior must notify the pastor of the place where the religious was baptized. To understand the object of this measure we must remember that the solemn vow of chastity contained in the solemn profession has the effect of making the professed religious incapable of entering a marriage contract. Should he attempt to enter it, his contract would be null and void. By keeping a record of his solemn profession in the baptismal register the danger is lessened that at any time a religious may succeed in attempting a sacrilegious union. The reason is obvious. Before the celebration of a marriage the contracting parties must procure their baptismal certificate from the baptismal register of the place where they were baptized. Should a religious of solemn vows therefore attempt a marriage,

it would be found out that he has an essential impediment arising from his solemn profession.

CANON 577

Of the renovation of vows

§ 1. Elapso tempore ad quod vota sunt nuncupata, renovationi votorum nulla est interponenda mora.

§ 2. Superioribus tamen facultas est ex justa causa permittendi ut renovatio votorum temporariorum per aliquod tempus, non tamen ultra mensem, anticipetur.

§ 1. The renovation of vows should take place immediately on their expiration.

§ 2. Superiors have the power to advance this renovation for a sufficient reason, not however beyond the limit of a month.

18. Twofold renovation of vows: *canonical* and *devotional*

The renovation of vows may be purely *devotional*, with no juridical value recognized by the Church, or it may be *canonical*, enjoying the recognition of the Church. The former may be made several times a year and is not subject to special laws. The latter has to be made in accordance with the laws of the Church regarding religious profession and, in particular, in accordance with the law set down in this canon, in which

there is question of the canonical renovation referred to in Canons 574 and 575.

19. The *canonical* renovation must take place when the temporary vows expire; superiors may anticipate it for a month

§§ 1 and 2. According, therefore, to this canon, as soon as the term for which the temporary vows were taken is over, the renovation must take place at once, that is, on the day when the temporary period expires. Superiors have the faculty to advance it for a period not exceeding a month.

CANON 578

Rights and duties of religious before they are permanently incorporated in the institute

Professi a votis temporariis de quibus in Canone 574:

1. **Fruuntur iisdem indulgentiis, privilegiis et spiritualibus gratiis quibus gaudent professi a votis solemnibus aut professi a votis simplicibus perpetuis et, si morte praeveniantur, ad eadem suffragia jus habent.**
2. **Eadem obligatione tenentur observandi regulas et constitutiones: sed ubi viget chori obligatio, divini officii privatim recitandi lege non obstringuntur, nisi sint in sacris constituti, aut aliud constitutiones expresse praescribant.**
3. **Voce activa et passiva carent, nisi aliud in constitutionibus expresse caveatur; tempus**

autem praescriptum ad fruendum voce activa et passiva, silentibus constitutionibus, computatur a prima professione.

The professed of temporary vows referred to in Canon 574:

1. *Enjoy all the indulgences, privileges and spiritual favors of the professed of solemn vows, or of the professed of simple perpetual vows, and, should they die before pronouncing these vows, have a right to the same suffrages as the others.*

2. *They have the same obligation to observe the rules and constitutions; where choir is obligatory, however, they are not bound by the rule of reciting the divine office in private unless they be in holy orders, or the constitutions expressly prescribe differently.*

3. *Unless the constitutions decree otherwise, they do not possess the right of active and passive voice; the time, however, set down for enjoying the privilege of active and passive vioce is reckoned from their first profession, unless the constitutions have a special provision to the contrary.*

Religious, as such, enjoy *favors*, namely, privileges, indulgences, and other spiritual benefits, of which some are common to all religious or to an entire class of religious, others are peculiar to each individual order or congregation. Again, apart from the obligations proceeding directly from the vows, religious have *duties* arising from their rules and constitutions. Finally, those among them whose status in the institute answers certain requirements have the *right* to give their vote in some matters defined in the constitutions.

Now, in accordance with Canons 574, 575, in every institute of perpetual vows there are two classes of religious, namely, those who have taken only temporary vows, and those who have already taken perpetual vows. The question then might be asked whether between these two classes any distinction should be made with regard to *favors*, *obligations*, and *rights*. The answer to this question is given in this canon, containing a general rule with a few exceptions.

20. With regard to privileges and religious

The general rule is: Concerning the obligation of observing the rules and constitutions of the institute, as well as in the matter of

indulgences and privileges, there is no distinction between religious of temporary vows and religious of perpetual vows. Thus, for instance, if in an order or congregation there is the privilege of anticipating matins and lauds at one o'clock in the afternoon, the privilege is enjoyed by all, whether they have temporary or perpetual vows.

duties no distinction has to be made between professed of temporary vows and professed of perpetual vows

The exceptions concern the obligation to recite the office in private and the right of active and passive voice.

21. But:

It is the common opinion of canonists that religious belonging to orders of regulars, destined by rule to sing the divine office in the choir, must, if prevented for any just reason from singing the office in common, say it privately. This canon declares that the obligation of reciting the divine office privately does not affect the religious who have not yet taken perpetual vows, so that when these religious are excused from the choir for some just reason, they have no obligation at all to say the divine office, unless of course they have received sacred orders, or this obligation is expressly imposed by the constitutions.

1) the professed of temporary vows are not bound to say the divine office privately;

2) the right of active and passive voice is not enjoyed by the professed of temporary vows, although seniority dates from the first profession

As to the right of active and passive voice, the religious with temporary vows in orders or in congregations in which perpetual vows are taken do not enjoy it, unless the constitutions grant it to them explicitly. However, after they have made their perpetual profession, the time set down for having active and passive voice dates from the time of their first profession. Thus, if in an institute, in order to enjoy that right one must have been professed six years, these six years are reckoned from the time when one took temporary vows, unless, again, the constitutions provide differently.

CANON 579

Bearing of solemn and of simple vows on acts contrary to either

Simplex professio, temporaria sit vel perpetua, actus votis contrarios reddit illicitos, sed non invalidos, nisi aliud expresse cautum fuerit: professio autem solemnis, si sint irritabiles, etiam invalidos.

The simple profession whether it be temporary or perpetual, renders illicit, but not invalid the acts which are contrary to the vows, unless express provision to the contrary has been made in the constitutions; the solemn pro-

fession however renders them also invalid, if they are capable of annulment.

The substance of this canon is sufficiently clear from what has been explained above, where we treated of the nature of solemn vows; but a few additional remarks will not be out of place.

22. Acts: 1) contrary to simple vows are *illicit, not invalid;*

The present canon says that the profession of simple vows makes the acts which are contrary to it *illicit* (unlawful) but not *invalid* (null and void) unless expressly stated otherwise, that is, unless the approved constitutions of an institute provide differently, as for instance in the case of the Society of Jesus, in which the simple vow of chastity taken by the scholastics makes the subsequent marriage not merely illicit, but invalid.

2) contrary to solemn vows are *illicit* a) *and invalid* b) *if* capable of being invalidated

Again the canon says that the profession of solemn vows makes the acts which are contrary to it invalid, *if* these acts are capable of being made invalid, that is, if their nature is such that legally they may be invalid.

The validity or in-

To explain this we must remember that the term *validity* or *invalidity* of an act

validity of an act is spoken of in connection with the legal and moral effects of which an act is capable

is applied with regard to the juridical and moral effects an act may have or may not have, according as it is or is not performed with certain formalities required by the law. For instance, in civil law, in order that a will may have the juridical effect of transmitting ownership of property to the beneficiaries mentioned in the will, it must be drawn up with certain formalities, that is, it must fulfill certain conditions; such as being made before witnesses, etc. If the will fulfills these conditions, it is said to be valid; if it does not fulfill them, the will is invalid, that is, it has no legal value and does not transmit the property as intended by the testator. So in ecclesiastical law, in order that religious profession may have the legal and moral effect of binding the religious who makes it, as well as the institute in which it is made, certain conditions must be fulfilled; for instance, the profession must be preceded by a year of novitiate. If the profession does not lack this condition and others equally necessary, it is said to be valid; otherwise it is invalid, and does not bind either the individual or the community. Now, there are

acts to which no special legal value is attached, such as the acts of eating and drinking, walking and sitting, and the like. These actions may be said to be *good* or *bad*, according as the person who performs them acts or does not act in accordance with the law. But there can be no question of calling them *valid* or *invalid*, because no matter how they are performed, no legal value is attached to them. With these principles in view, the meaning of this canon is clear.

The doctrine concerning acts contrary to solemn vows exemplified

All actions performed in violation of the promises contained in the solemn profession are *bad* or *illicit*, and, besides, they are also *invalid*, if their nature is such that they are capable of producing some juridical effects. Thus, for instance, if religious of solemn vows receive property and sell it without permission, their contract of sale is illicit and invalid, that is, it has not the effect of transmitting the ownership of the property to the person who bought it; whereas, if they receive food and eat it without permission, their act is illicit, but it cannot be said to be invalid. Again, if religious with solemn vows attempt to enter a marriage

contract, their action is illicit and invalid, that is, it has not the effect of binding the two contracting parties; but if they violate their second vow by unbecoming conduct, their action is only illicit and there is no question of calling it invalid. Finally, if religious with solemn vows violate the third vow, for instance, by taking a special vow after having been forbidden to do so in virtue of holy obedience, their action is illicit and invalid, that is, it does not bind them to fulfill the promise contained in that special vow, but if they go out walking in spite of a special prohibition given in virtue of holy obedience, their action is illicit and nothing more.

Transition to the four following canons

As has been remarked from the beginning, religious profession implies the three essential vows of poverty, chastity, and obedience. In the preceding canon the general principle concerning the different effects of the simple and of the solemn profession is laid down, without special reference to any of the three vows contained in it. In the four following canons the law takes into consideration the various effects of the vow of poverty,

according as this vow is simple or solemn. Owing to the difference between the simple and the solemn vow of poverty, the law had to treat of these two vows separately. Accordingly it devotes Canons 580, 581, and 583 to the simple vow of poverty and Canon 582 to the solemn vow of poverty.

As the vow of poverty affects directly the right of ownership, these canons determine whether and how far the professed of simple or solemn vows can exercise the various acts which are connected with the right of ownership. In general, the chief possible acts of ownership are: *a*) to *own* or possess property; *b*) to *administer* it; *c*) to *dispose* of the *revenues; d*) to *acquire* new property; *e*) to *dispose* of the *property* already possessed. The regulations concerning these five acts are then given in these four following canons, with the addition of Canon 569, reference to which is made twice in Canon 580. For the sake of clearness, in explaining all this matter, we shall not follow the order of the Code very closely, but, after having given the text of the law, we shall take up, one after another, the five

Outline of the four following Canons 580, 581, 582, 583: rules governing the right
a) to *retain* property;
b) to *administer* it;
c) to *dispose* of the *revenues;*
d) to *acquire* new property;
e) to *dispose* of the *property* itself

points just mentioned and give for each the rules contained in the text.

CANON 580

§ 1. Quilibet professus a votis simplicibus, sive perpetuis, sive temporariis, nisi aliud in constitutionibus cautum sit, conservat proprietatem bonorum suorum et capacitatem alia bona acquirendi salvis quae in Canone 569 praescripta sunt.[1]

§ 2. Quidquid autem industria sua vel intuitu religionis acquirit, religioni acquirit.

§ 3. Cessionem vel dispositionem de qua in Canone 569 § 2, professus mutare potest, non quidem

[1] CANON 569

§ 1. Before making their profession of simple vows, whether temporary or perpetual, novices must make a provision, to hold as long as they remain with simple vows, by which they give over the administration of their property to anyone they wish to choose, and, unless the constitutions forbid it, they must likewise freely dispose of the use and usufruct of their possessions.

§ 2. If such provision was not made during the novitiate for lack of property and this be conveyed to them afterwards, or if, after the novitiate is over, new property be conveyed to them under whatsoever title, let this provision be made in the same manner as prescribed in the preceding section, in spite of the fact that they have made their simple profession.

§ 3. Before making their temporary profession, novices should dispose by a will of the property which they actually own or which may be conveyed to them in the future.

proprio arbitrio, nisi constitutiones id sinant, sed de supremi moderatoris licentia, aut, si de monialibus agatur, de licentia Ordinarii loci et, si monasterium regularibus obnoxium sit, superioris regularis, dummodo mutatio, saltem de notabili bonorum parte, non fiat in favorem religionis; per discessum autem a religione, ejusmodi cessio ac dispositio habere vim desinit.

§ 1. *The professed of simple vows, whether perpetual or temporary, unless otherwise laid down in the constitutions, retain the ownership of their property with the capability of acquiring more; but the enactments of Canon 569 must be adhered to.*

§ 2. *Whatever is acquired by them by personal endeavor or is given them on account of their religious institute, belongs to the institute.*

§ 3. *As to the appointment of an administrator of their property and the disposal of their revenues referred to in Canon 569 § 2, they can make a change, not indeed at their own discretion, unless the constitutions permit this, but with the permission of their superior general, or, in the case of nuns, of the Ordinary of the place and, when there is question of nuns subject to regulars, also with the permission*

of the superior of the order on which they depend. Should the change, however, be in favor of ther own institute, they are not allowed to make it even with the permission of these superiors, at least if the change involve a considerable portion of their property. Finally, should these professed of simple vows leave the institute, the provisions they made concerning the administration and the revenues of their property cease to hold.

CANON 581

§ 1. Professus a votis simplicibus antea nequit valide, sed infra sexaginta dies ante professionem solemnem, salvis peculiaribus indultis a S. Sede concessis, debet omnibus bonis quae actu habet cui maluerit sub conditione sequuturae professionis renuntiare.

§ 2. Sequuta professione, ea omnia statim fiant, quae necessaria sunt ut renuntiatio etiam jure civili effectum consequatur.

§ 1. Apart from special indults granted by the Holy See, the professed of simple vows cannot validly renounce their property before the last sixty days which precede their solemn profession; within these sixty days, however,

they must make an entire renunciation of their property in favor of whomsoever they wish, on condition that the solemn profession will actually take place.

§ 2. Immediately after the profession has taken place, all necessary steps should be taken that this renunciation may hold also in civil law.

CANON 582

Post solemnem professionem, salvis pariter peculiaribus Apostolicae Sedis indultis, omnia bona, quae quovis modo obveniunt regulari:

§ 1. In ordine capaci possidendi cedunt ordini, vel provinciae vel domui secundum constitutiones.

§ 2. In ordine incapaci acquiruntur S. Sedi in proprietatem.

After the solemn profession, due regard being likewise had to the indults of the Apostolic See, all property devolving in whatsoever way to a regular:

§ 1. Goes to the order, or province, or house according to the constitutions, if the order is capable of owning property.

§ 2. In an order incapable of owning property, the Holy See becomes the owner.

CANON 583

Professis a votis simplicibus in congregationibus religiosis non licet:

1. **Per actum inter vivos dominium bonorum suorum titulo gratioso abdicare.**
2. **Testamentum conditum ad normam Canonis 569 § 3 mutare sine licentia S. Sedis, vel, si res urgeat nec tempus suppetat ad eam recurrendi, sine licentia superioris majoris, aut, si nec ille adiri possit, localis.**

The professed of simple vows in religious congregations are not allowed:

1. *To dispose of their property in favor of others* (inter vivos) *by gift or donation.*
2. *To change the will already made in accordance with Canon 569 § 3, without the permission of the Holy See, or, of one of the higher superiors, in urgent cases when there is no time for having recourse to the Holy See, or of the local superior if one of the higher superiors cannot be reached.*

As we remarked before, of these four canons, three refer to the simple vow of poverty and one to the solemn vow of

poverty. We shall first explain the contents of the canons referring to the simple vow of poverty.

In accordance with the outline given above, the professed of simple vows will find here the principles relative to the acts: *a*) of retaining property acquired before making their profession; *b*) of administering their property; *c*) of disposing of their revenues; *d*) of acquiring new property; *e*) of disposing of the property possessed by them.

23. The professed of simple vows retain the ownership of their property

With regard to *retaining* the ownership of the property which the professed of simple vows possessed at the time of their profession, this right is expressly allowed by the law in Canon 580, § 1. This follows directly from what has been said concerning the nature of the simple vow of poverty, which is of such a character as not to deprive the professed of the right of ownership. An exception is made by the law in case the constitutions of an institute provide differently; that is, in case the constitutions declare that the professed cannot retain their former possessions. The law recognizes the legal value of this provision, by which in

some institutes poverty may be practised more strictly than the nature of the simple vow of poverty and the general law of the Church require.

24. Before their first profession they must appoint an administrator in charge of their property and choose the beneficiary of their revenues

With regard to the *administration* of their property and the *disposal* of their revenues, the rules are the following:

Before their first profession, while still in the novitiate, religious must appoint someone to take full charge of the administration of their property and, unless otherwise enacted in the constitutions, must dispose of their revenues by renouncing them in favor of some person or by devoting them to some definite purpose. They are free in the choice of an administrator. Hence they may designate anyone, either an extern, namely a person not belonging to the institute, or the institute itself. They are free also in selecting the beneficiary of their revenues, unless the constitutions provide differently. (Canon 569, § 1.) The law says expressly that this twofold appointment must continue as long as a religious remains with simple vows. The law, therefore, does not refer to the time when a religious will take solemn vows, or

perhaps leave the institute, as will be explained later.

Here the question may arise whether they are allowed to ordain that their revenues must go to increase their capital. The status of the professed of simple vows as well as the wording of the law seem to allow an affirmative answer. The professed of simple vows are capable of acquiring new property, and, if the law had intended to forbid them to acquire new property by the accumulation of their revenues, it would have stated this clearly; whereas, quite to the contrary, the law uses words which bear a rather favorable interpretation. The law says, in fact, that they can *dispose* of their revenues. Now, to *dispose* of a thing does not necessarily mean to *distribute* it or to *give* it *away* altogether; it may mean also to *arrange* what has to be done with it. This interpretation is all the more probable, as the law uses different terms in speaking of the *administration* and of the *revenues*. Of the administration it says that the religious should *give* it *over* (*cedere*); of the revenues it says only that they have to *dispose* of them, and it

Probably they may ordain that their revenues should go to increase their capital

emphasizes this right by saying that they can do this *freely* (*libere disponere*). True, there is an answer of the S. Congregation of Bishops and Regulars, given on November 21, 1902, which denies this right to the professed. But that answer was in settlement of a particular case and given before the Code was promulgated. It would not seem to be sufficient, therefore, for settling this point, unless promulgated again for the whole Church.[1]

25. They must likewise appoint administrator and beneficiary, if they acquire property after having made their first profession

What has to be done in the case of religious who neither appointed an administrator nor disposed of any revenues before making their profession, because at that time they had no property and, yet, after their profession acquire property?

The law lays down the same rule already given, viz., that they must give up the administration of their property and dispose of their revenues. In so doing they enjoy the same freedom which they enjoyed in their novitiate, notwithstanding the pro-

[1] Vermeersch, De Religiosis Institutis et Missionariis. Vol. I, p. 122. De Religiosis Institutis et Personis. Vol. I, n. 246. Bastien, Guide Canonique, n. 239.

fession they have already made. The law prescribes the same procedure for all property, no matter by what title acquired, whether by will, legacy, or donation. (Canon 569, § 2.)

1) in making this *choice* they are free;

Here let it be remarked that, according to the law, religious, in spite of their profession, do not need the permission of their superior for *choosing* the administrator of their property and the beneficiary of their revenues, unless with regard to the beneficiary of their revenues the constitutions provide otherwise.

2) but do they need permission for *accepting* new property?

But do they need the permission of their superior for *accepting* property which they may acquire after having made their first profession? Of course this question does not refer to cases in which the property is transferred to religious by the operation of the law without a special act of acceptance on their part. But often in order that the property may be transferred to the donatee his explicit acceptance is necessary as happens ordinarily in cases of donations. The question then arises: For accepting donations do religious need a special permission of their superior? It would seem at first that they do need this permission in virtue of

their vow of poverty, because this vow forbids them to exercise the right of ownership and *accepting property* is one of the acts by which the right of ownership is exercised. But, prescinding from special provisions which may be contained in the approved constitutions of some institute, we would not insist on the necessity of this special permission, because, arguing from the whole tenor of the law, one may perhaps hold as probable that the law itself implicitly contains the required permission.[1]

26. To change administrator or beneficiary the permission of the superior general and in some cases that of the Holy See is necessary

Once the professed have exercised their right to appoint the administrator of their property and the beneficiary of their revenues, they may still make a change of either the administrator or the beneficiary. For this,

[1] Even holding that religious need this special permission, it is not necessary to say that this permission ought to be always *explicit*. Here we prescind from the question under what circumstances a *tacit* permission is sufficient for acting so as not to violate the vow of poverty. This question will be treated in another publication in which we shall consider the vow of poverty and also the vows of chastity and obedience as they are considered by moral theologians, namely with more direct reference to their moral aspect. In the present work we treat of religious profession and of the vow of poverty contained in it from their legal aspect, having in view chiefly the positive law contained in these canons.

however, unless the constitutions give them full freedom in this matter, they need the permission of their superior general, or, in the case of nuns, the permission of the local ordinary as well as the permission of the superior of the order of regulars to whom the monastery may be subject, as is the case with some communities of nuns. Again, the law does not allow the professed to make such a change, even with the permission of these superiors, if there is question of disposing of a *considerable* portion of their revenues *in favor of their institute*. In this case they will need the permission of the S. Congregation of Religious. The law does not determine what constitutes a *considerable* portion or amount, nor is it easy to fix a certain definite sum for all cases. In general, more than half the whole income may safely be assumed to be such a considerable amount. In concrete cases the superior will decide. (Canon 580, § 3.)

27. On leaving the institute they again enjoy

Should the professed of *simple* vows leave the institute, both the act by which they resigned the administration of their property, and the act by which they renounced in

the right to administer their property and to keep their revenues

favor of someone else the revenues of their estate, would lose all legal value. These acts which they performed before making their first profession, or afterwards, as the case may be, are to be considered conditional, resting on this implicit condition: as long as I remain in this institute. By the very fact that they leave, they regain the right to administer their property and to enjoy their revenues. This condition holds even though it be not expressed at the time of the renunciation. It is advisable, however, and in keeping with the very wording of the law, that the condition should be expressed in the document by which the renunciation is made. Moreover, the religious are thus made fully aware of their right. (Canon 580, § 3.)

Speaking of this right, we expressly limited it to the professed of *simple* vows. Should the professed of *solemn* vows leave the order, they would not enjoy it. The reason for the difference is clear. The professed of simple vows retain the ownership of their property in spite of their simple profession. If they must give up the administration of

their property and dispose of their revenues, this is done because it is required by their status as religious and by their vow of poverty. Consequently when they cease to be religious and are no longer bound by the vow of poverty, there is no reason why they should not have the right to administer their property and to dispose of their revenues at will. But the professed of solemn vows lose all right of ownership from the moment they make their solemn profession, and consequently, should they leave, there could be no question of administering their property or disposing of the revenues thereof.[1]

These, then, are the regulations concerning the right of the professed of simple vows to retain their property, to administer it, and to dispose of their revenues.

28. The professed of simple vows retain the right to acquire new property duly conveyed to them by a will or legacy, or by a do-

With regard to the right to *acquire* new property, the professed of simple vows retain this right, unless otherwise enacted in the constitutions. They can exercise it whenever they receive property duly con-

[1] Here we prescind from the special provision by which the dowry must be returned to sisters and nuns in case they leave the institute. (Canon 551.)

nation or personal gift;

veyed to them by will or legacy, or by donation or personal gift.

1) but not to what is given them as a donation or gift for the community;

We say by donation or *personal* gift, because it is clear that they have no right to donations or gifts which are intended for the community of which they are members.

2) nor to what is given them as remuneration for work done

Moreover, they do not acquire the ownership of what they receive as the fruit of their industry, that is, of what is given them as a remuneration for work done or for services rendered by them. (Canon 580, § 2.) This rule is fully in keeping with the status of religious who, in rendering their spiritual or temporal ministration to the people, do not act as private individuals, but as members of the institute, which employs them in carrying out its work after having trained and fitted them for the same.

Let us apply these principles to a few practical cases.

If a sister receives an inheritance or a legacy from her parents, evidently the property thus conveyed to her belongs to her personally. The same will be the case if on her feast day she receives a sum of money from one of her relatives, especially if the

donor is not a Catholic. On the contrary, if a priest belonging to a religious institute, after giving a sermon, receives a sum of money representing the stipend usually offered on such occasions; or if a sister upon representing to her mother the pressing needs of the community receives a gift from her, the money belongs to the community, not to the individual. There may be cases that may present some difficulty. For instance, after a sermon a religious receives an offering much more generous than is customary, a hundred dollars instead of five or ten. Is the excess over the usual sum intended for the person or for the community? It will depend on circumstances. If, however, the doubt cannot be solved from a consideration of the circumstances, we are inclined to think that the presumption is in favor of the community. Why? Because, unless the donor makes his mind clearly known to the effect that he intends the excess to be a personal gift, the hundred dollars represent a perquisite, or stipend, or remuneration for work done, in spite of the fact that the reward is more generous than usual and it remains true that

the religious acquires the money *industria personali* by "personal industry." Arguing on the same principle, Bastien solves a somewhat similar case also in favor of the community. The case is that of a sister who has been attending a rich lady at her home for several weeks and is made by her the universal heiress of her property. (Guide Canonique, n. 245.)

3) what the professed of simple vows have no right to, becomes the property of the institute

The law says that what is given to religious with a view of benefiting the institute, or as a reward for work done by them, goes to the institute, but it does not determine whether it should go to the institute itself, or to the province or to the local community. As a rule, what has the nature of a compensation becomes the property of the house to which the religious belongs. What amounts to a gift goes to the province or to the institute, unless there is question of very small sums, or the donor has expressly defined who, within the limits of the institute, should be the beneficiary of his donation. Apart from an explicit intention of the donor, let the constitutions or custom be followed.

With regard to the right of the professed of simple vows to *dispose* of their *property*, the law makes a distinction between the professed belonging to religious *congregations* and the professed who are members of *orders* of regulars; a distinction which the law did not make in giving the rules explained so far.

Speaking first of the professed of simple vows in religious congregations, we may mention three ways in which, in general, property may be disposed of: *a*) by a *will*, which, of course, will have its effect only after the death of the proprietors; *b*) by a deed of *gift*, which goes into effect during their lifetime and by which proprietors renounce the ownership of their property entirely without receiving the equivalent of what they give; *c*) by a *sale* or *loan* or a similar contract, by which they either divest themselves of the ownership of their capital, but receive the equivalent for it, or give up only the use and profits of what they possess.

29. The professed of simple

As to disposing of their property by making a *will*, the law supposes that they have made

vows in religious congregations: 1) ordinarily need the permission of the Holy See if they wish to *change* their *will* made in the novitiate;

it already while they were in the novitiate, because Canon 569, § 3 provides that novices in religious congregations should make a will of what they actually possess as well as of what they may acquire afterwards.[1] With regard to the will already made in the novitiate, the law declares that the professed can *change* it with leave of the Holy See. In cases, however, where there is urgent need and no time for having recourse to Rome, the permission of one of the higher superiors (general or provincial) is sufficient. If there is not even time for having recourse to either of these, the permission of the local superior is all that is required.

Here a question might be asked: What if the will which ought to have been made during the novitiate was omitted at that time? Can the professed of simple vows make it afterwards? As the law is silent on this point, it would seem that they can, with the permission of their local superior or of their

[1] But novices, whether belonging to a religious congregation or to an order of regulars, are forbidden to give up their property by gift or donation under penalty of invalidity. (Canon 568.)

provincial, without any permission of the Holy See.

a) are forbidden to deprive themselves of property by *donation;*

Religious of simple vows in congregations are not allowed to give up their property by *gift* or donation, not only as long as they remain with temporary vows, but also after they have made their perpetual profession. Up to the present the practice of the Holy See, as embodied in the Normae, art. 119, had been to forbid religious with simple vows to make a renunciation during the period of their temporary vows, but it allowed them to make it at the time of their perpetual profession. The present law forbids it altogether. (Canon 583, § 1.)

The reason of the law is one of prudence. It may happen that religious will leave their congregation even after they have taken perpetual vows, either because, unfortunately, they have repeatedly been guilty of such serious faults that the institute is finally obliged to expel them, or because circumstances may develop which will suggest that they should leave of their own accord with the necessary dispensation from their vows. In view of these rare but possible

contingencies, it is not prudent that religious should deprive themselves of the property which they brought to religion. In this way superiors will be freer in dismissing undesirable subjects; those religious who feel that they should ask for a dispensation will have less difficulty in doing so; while none, whatever their reason for leaving may be, will have any cause for regret for having renounced what must serve them when they have to depend on their own resources.

In connection with this law forbidding religious of simple vows to give up their property, we venture a remark. It would seem that this law should not be interpreted so strictly as to forbid also small donations such as now and then the professed may wish to make in favor of the poor or for some other charitable purpose. As long as these little gifts leave the whole of the property morally intact, they do not come under the scope of the law. On the other hand, the danger of thus frustrating the law is not much to be feared, because the professed will not act without the prudent advice of their

superiors, to whom they must have recourse for permission.[1]

3) as to *sales* and *loans*, see above, n. 24

Sales and *loans* are acts which do not deprive the proprietors of their possessions. They are acts of *administration* and, as such, fall under the rules already given on this point.

We have seen what rules govern religious of simple vows in *congregations*, with regard to the disposal of their property. What does the law prescribe for religious of simple vows, in *orders* of regulars, with regard to this same point, viz., the disposal of their property? On this point the law enacts as follows in Canon 581.

The professed of simple vows belonging to an order of regulars cannot validly renounce their property before the period of the last sixty days which precede their solemn profession.

Within sixty days before they make their solemn profession they must renounce their property, and this renunciation must be entire, embracing all that they possess.

[1] Schmalzgrueber, De Jure Canonico Universo. Lib. III, tit. 31, n. 100. Wernz, Jus Decretalium. Vol. III, n. 638 iii. note 279.

Special indults to the contrary received from the Holy See still hold.

This renunciation has to be made on condition that the solemn profession will actually take place.

After the solemn profession has been made, care must be taken that the renunciation holds also in civil law.

Let us add a few brief comments in explanation of each of these provisions.

30. The professed of simple vows in orders of regulars cannot validly renounce their property before the last sixty days preceding their solemn profession

The Council of Trent, session 25th *de regularibus*, c. 16th, had already made a law like this for *novices* of orders of solemn vows, forbidding them to make a renunciation of their possessions prior to the last two months of their novitiate, under penalty of invalidity. At that time, according to the general law of the Church, the solemn profession followed immediately after the time of probation or novitiate. When Pius IX, and later Leo XIII, decreed that the solemn profession should be preceded by three years of simple vows, the law of Trent was adapted to this change, and it was enacted that in orders of solemn vows this renunciation should not be made before the last period of the profession

of simple vows, as has been enacted again in this canon. Should, therefore, a professed belonging to an order of regulars renounce his property by gift or donation before the last sixty days of his temporary vows, his renunciation would be null and void. With regard to small donations we may probably hold that the law does not forbid them. See above, n. 29, where we hold a similar interpretation of the law in so far as it affects the professed in religious congregations.

31. Within sixty days before the solemn profession: 1) they must make a renunciation of all they have;

When the time of their solemn profession approaches they are bound to renounce all they have. This renunciation which they must make is not of the nature of a will, but is an *actual giving up* of whatever they possess. That such is the nature of this renunciation is clear, first, from the *wording* of the law, because he who disposes of his property by a will is not said to *renounce* what he has. Again, this renunciation is the same as that treated of in the former law of the Council of Trent, Pius IX and Leo XIII, with only some slight difference. The former legislation *forbade* novices and professed of simple vows, respectively, to make a renunciation

at an earlier period without prescribing any fixed time as obligatory. The present law, besides confirming the already existing prohibition, also decrees that the renunciation *should* take place at the time mentioned in the law. Now, the renunciation forbidden by the Council of Trent, as well as by Pius IX and Leo XIII, was not a will, but rather a giving up of one's property to become operative before death.

2) probably they are free in choosing their beneficiary

In making this renunciation religious are free to choose their beneficiary and, it seems, are not even bound to consult their superior, unless perhaps the constitutions expressly require it. True, they have taken the simple vow of poverty, which forbids them to perform acts of ownership without their superior's permission. But here there is question of an act which is required by the law itself, and the only thing left to them is the choice of the person in whose favor they intend to make their renunciation.

32. Apostolic indults to the contrary are expressly recognized

In making the law that novices could not validly renounce their property until two months before the time of their profession, the Council of Trent explicitly excepted the

Society of Jesus, as it had already had special provisions on this point. The present law recognizes whatever indults any order may have received from the Holy See concerning the obligation of making this renunciation at the time set down in the law.

This renunciation must be made on condition that the solemn profession will actually take place. The reason of this provision is to avoid all possibility that religious may be deprived of their property before their status in religion has become permanent by their solemn profession.

33. This renunciation: 1) does not go into effect before the solemn profession takes place;

What is the relative juridical value of a will and a renunciation, if a religious made a will before making this renunciation? The renunciation has a preferential character. Hence, if a religious made a will, this loses all value the moment his renunciation goes into effect, but not before. Consequently, if he dies before having made his solemn profession, his will will have its full effect, whereas it will have no effect at all if he dies after having made his solemn profession.

2) after the solemn profession it supersedes a will if previously made

Finally, in making this renunciation it is necessary to comply as soon as possible with

34. This renunciation

has to be made so as to hold also in civil law

all the formalities the law requires for the validity of similar acts. Were the formalities omitted, the heirs at law could claim before the civil courts whatever property religious might still have in their name at the time of their death.

Having explained the law concerning the *simple* vow of poverty, we now give the provisions of the law concerning the *solemn* vow of poverty.

Since, by taking simple vows, the professed do not lose their right of ownership, the law thus far explained as affecting the professed of simple vows aimed chiefly at regulating the lawful exercise of this right. It accomplished this by establishing rules concerning the different acts which the right of ownership implies, namely the acts of retaining property, of administering it, of disposing of the revenues, of acquiring new property, and of disposing of the property itself.

But since, by taking solemn vows, the professed lose their right of ownership and consequently the various rights connected with it, the law which we are about to explain with reference to the professed of solemn

vows is silent about these rights. It merely provides an answer to the question as to who becomes the owner of the property which may be given to religious of solemn vows by donation or legacy or inheritance. The solemn profession has made them incapable of owning it themselves. Who then becomes the owner?

The answer is different according to the different degrees in which poverty is practised by religious orders. In many orders, the professed of solemn vows cannot own property *individually*, but they can own it *in common;* that is, the individuals cannot possess, but the communities can. In some orders, however, neither the individuals nor the communities may own property, with the exception of the house where they live, the church where they officiate, etc. In view of these two classes, the law we are dealing with lays down two rules.

35. In orders which can possess in common, what is given to the professed of solemn vows becomes the property of

The first rule is that, whatever is given to religious of the first class becomes the property of the order or of the province or of the local house, according to the constitutions; that is, the constitutions are supposed to

the order, or of the province, or of the local community of which the beneficiary is a member:

determine whether it is the order or the province or the local house which has the right to the property the religious of solemn vows cannot acquire for themselves.

The general rule established here is an application of the old general principle, *quidquid monachus acquirit, monasterio acquirit*, "whatever a religious acquires, he acquires for the monastery." The monastery referred to in this principle is the community of which a religious is a member.

1) in keeping with the principle: Whatever a religious acquires he acquires for the monastery;

2) how this principle was understood in former times;

As long as the local communities of religious were independent of one another, and a religious, having made his profession in a community or house, remained a member of the same for life, the application of that principle presented no difficulty with regard to the community in question. The community was that in which and for which a religious had made his profession. The reason of that principle or law was in keeping with the relation which existed between a religious and the community of his profession. As he was incapable of owning property himself, it was reasonable and just that whatever he acquired should become the

property of the community to which his profession bound him for life, and which in return was obliged to support him as one of its members. This is still the case with some of the more ancient orders.

3) how it is understood in our times

However, for several centuries past, most of the religious families have been organized in such a way that local communities are not independent of one another. The whole order is divided into provinces, and every province comprises several communities or houses. The local communities depend on the province, and the province depends on the order. In institutes in which this organization prevails the profession, as a rule, is not made for a definite local community but for the order, and a religious may be changed by superiors from house to house, at least within the limits of the same province. Once this constitution was introduced, the question arose concerning the application of the principle that "whatever a religious acquires, he acquires for the monastery" or community. Hitherto, canonists were wont to answer this question in the sense that, in general, the community which acquires the prop-

erty left to religious of solemn vows is the *order* or the *province*, rather than the *community* of which he is actually a member. At the same time they remarked that in the last instance this question had to be settled in accordance with the constitutions of each order. Now it is in this same way that this question is settled by the present law. In case the constitutions are silent on this point, let the question be settled by the lawfully established customs of each individual order.

36. In orders which cannot possess in common, the property goes to the Holy See

The second rule is that when property is left to religious of solemn vows belonging to orders which cannot own property even in common, such property goes to the Holy See.

37. Both rules admit exceptions in cases of Apostolic indults to the contrary

These, then, are the latest rules concerning the property left to religious of solemn vows. In enacting them, the law says, "barring special indults received from the Holy See." Hence, whatever special indults may have been granted to certain orders hold as before.

CANON 584

When benefices held by religious become vacant

Post annum ab emissa qualibet professione religiosa vacant beneficia parochialia; post triennium cetera.

Dating from the first profession, parochial benefices become vacant after one year, all others after three years.

Canon 584 contains wise enactments concerning the disposal of benefices which religious may have at the time of their entrance into religion. It distinguishes between parochial benefices and non-parochial benefices. Parochial benefices are those the incumbent of which is charged with the care of souls, as parish priests are: non-parochial benefices are those the incumbent of which has some office different from the care of souls, such as are the canons and other members of a cathedral chapter.

38. Parochial benefices held by religious become vacant after the first year of their profession, the other benefices after the third year

Parochial benefices held by religious become vacant one year after their first profession; all other benefices three years after their first profession. The reason why parochial benefices become vacant sooner than non-parochial benefices is because the former, having the care of souls attached to them, stand in greater need of being administered by their legal incumbent than the others.

CANON 585

When religious lose their incardination in a diocese

Professus a votis perpetuis, sive solemnibus sive simplicibus, amittit ipso jure propriam quam in saeculo habebat dioecesim.

When making the perpetual profession, whether of solemn or of simple vows, religious lose by law the right of incardination in their diocese.

It is the law of the Church that every cleric should be attached to some diocese or to some religious institute, in order that there may always be a Bishop or a religious superior who will be responsible for his conduct, for the legitimate exercise of his ministry, and for his support. The incorporation of a cleric into a diocese is called incardination. The incardination is intended not only for the good of the Church, in general, and of the diocese, in particular, but also for the good of the individual, who, while bound to obey his ordinary, has the right to receive from him some appointment from which he may derive his support. While there are two different ways of accomplishing the purpose of this law, namely the incardination of a

cleric in a diocese and his being attached to some religious institute, the mere fact that a cleric becomes a member of a religious community, with only *temporary* vows, is not sufficient for severing all connection between him and the diocese in which he may have been incardinated. The incorporation of a religious in a religious institute is not permanent until he takes perpetual vows. Hence the present law explicitly declares that, when religious make their *perpetual* profession whether solemn or simple, and not before, they lose the right of incardination in the diocese to which they belonged before entering religion.

39. When religious make their perpetual profession they lose the right of incardination in the diocese to which they belonged before embracing the religious life

CANON 586

§ 1. Professio religiosa, irrita ob impedimentum externum, non convalescit per subsequentes actus, sed opus est ut a Sede Apostolica sanetur, vel denuo, cognita nullitate et impedimento sublato, legitime emittatur.

How an invalid profession can be revalidated

§ 2. Si autem irrita fuerit ob consensus defectum mere internum, hoc praestito convalescit, dummodo ex parte religionis consensus non fuerit revocatus.

§ 1. *Religious profession which was invalid on account of an external impediment, does*

not become valid by subsequent acts, but must either be revalidated by the Holy See, or legitimately pronounced anew, after its nullity has become known and the impediment removed.

§ 2. *If however it was invalid from a mere lack of internal consent, it becomes valid when internal consent is given, provided no revocation of consent has intervened on the part of the institute.*

40. Religious profession may have been invalid on account of some *external* impediment or lack of *internal* consent

Canon 586 takes into consideration the fact that at times the profession may have been invalid on account of some impediment. This impediment may be *external*, for instance, the lack of the legitimate age required for the profession; or *internal*, if, for example, a novice, when reciting the formula of profession, does not give his consent interiorly. In such cases the question arises: What is necessary in order that the profession, once null and void, may afterwards become valid?

41. When profession was invalid on account of an external impediment, it

§ 1. With regard to the case of an *external* impediment, this canon rules in § 1 that no subsequent act will be sufficient to revalidate it. An invalid profession becomes valid only by a special intervention of the

Holy See, recognizing the profession as valid, or by an express renewal of the profession itself after the invalidity has become known to the parties and the impediment has ceased.

can be revalidated only by a special grant of the Holy See or by an express renewal of the profession itself:

According to previous legislation, if the impediment which had made the profession invalid affected only one party, namely, either the institute or the individual, the profession was revalidated by the ratification of the party on whom the invalidity depended, provided, of course, the impediment had ceased. Moreover, as long as the *tacit* profession was admitted, a *tacit* ratification was also sufficient. But in order to avoid all possible difficulties, the present law does away with every kind of ratification, and admits only two ways of revalidating a profession which had been null and void on account of an external impediment, namely, either an express renewal of the profession or an act by which the Holy See legalizes the profession by recognizing it as valid.

1) the present legislation does away with the *tacit* ratification of the invalid profession;

In the case of this special intervention of the Holy See it is not always necessary that the impediment, if it be of positive law,

2) in the case of revalidation by the re-

newal of the profession, the impediment must have ceased and the invalidity must be known to the parties

should have ceased, nor that the invalidity be known to the parties, because the Holy See can dispense from impediments which have been introduced by the Church. Ignorance of the impediment on the part of the individual or of the institute cannot interfere with the act of the Holy See, provided, of course, the parties gave their consent in the beginning and did not withdraw it before the intervention of the Holy See took place. In the case, however, of the renewal of the profession it is clear that the impediment must have ceased, and moreover the invalidity must have become known to the parties, because the consent which the Church requires must be a new one, different from that which was given at the time of the invalid profession. Now if the invalidity is not known, the consent will not be altogether new, but will be rather a continuation of the former.

42. When the profession was invalid because of lack of internal consent,

§ 2. If the profession was invalid only because of the lack of internal consent on the part of the religious, who, while pronouncing the formula and acting exteriorly, as others do when they make their profession, inte-

riorly did not intend to profess, nothing else is required except that he give the necessary consent, provided, of course, that in the meantime the institute has not withdrawn its own consent. There is no need that the religious manifest his consent in any way; an internal act of his will is sufficient.

revalidation takes place by the fact that internal consent is supplied

What about the provision contained in the constitutions of some institutes to the effect that the annual or semi-annual renewal of vows is equivalent to the first profession, in case this had been invalid on account of some impediment which in the meantime had ceased? Does this canon implicitly abrogate such a provision? Barring, of course, any special privilege in the matter, it would seem that it does, because this new law not only requires the express renewal of the profession, but enacts explicitly that this renewal must be preceded by the knowledge of the nullity of the first profession.

INDEX